

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - W/S of Mace Avenue, 250' N of Upperland Road (708 Mace Avenue) 15th Election District 5th Councilmanic District

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 91-288-SPHA

Herbert J. Scism, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing for a finding that an existing dwelling and accessory building annexed together via a breezeway is a single family dwelling, and a variance to permit a side yard setback of 3 feet in lieu of the minimum required 10 feet and a rear yard setback of 19 feet in lieu of the minimum required 30 feet for the accessory building to be annexed in accordance with Petitioner's Exhibit 1.

The Petitioners, Herbert and Mary Rose Scism, appeared and testified. Also appearing on behalf of the Petitions was Petitioners' son, Mark Scism. Appearing as Protestants in the matter were Judith Reaves, Lola Reaves, and Frances and Louise Hawkins.

Testimony indicated that the subject property, known as 708 Mace Avenue consists of .229 acres more or less zoned D.R. 5.5 and is improved with a single family dwelling, an accessory structure and detached garage. Herbert Scism testified that his son is currently living in the subject accessory structure which was originally built as a shed and subsequently converted to living quarters. He testified the structure currently has no kitchen or bathroom facilities; however, Petitioners have obtained a building permit for the addition of a bathroom to the subject structure. Testimony indicated Mr. Scism is desirous of connecting the main dwelling to the accessory structure via a breezeway as indicated on Petitioner's Exhibit 1.

1. Mr. Scism testified that he has no intention of ever renting out the annexed portion of his home as an apartment and cited several medical conditions from which he suffers as reasons for providing more first floor habitable space for himself. Testimony indicated the requested variances are needed in order to legalize the accessory structure which does not meet current setback regulations.

Appearing as Protestants/Interested Parties were Frances and Louise Hawkins. Mr. & Mrs. Hawkins concurred in their concerns regarding the annexed portion of the property becoming an apartment. Mr. & Mrs. Hawkins testified they did not object to any member of Mr. Scism's immediate family living in the annexed portion but would object to said portion being utilized by non-related tenants. Mr. & Mrs. Hawkins testified that although they did not object to the existing improvements, they did not want to see any more expansion to either the garage, the primary dwelling or the accessory structure to be annexed.

Mrs. Judith Reaves and Mrs. Lola Reaves appeared as Protestants/Interested Parties and essentially concurred with the concerns raised by the Hawkins. Judith Reaves, an adjoining neighbor to the Petitioners, also indicated she would like to see no more structures or additions to existing structures on the subject property.

Petitioners also requested a determination that the existing dwelling and accessory structure to be connected by a breezeway as proposed constitutes a single family dwelling. Based upon the testimony and evidence presented, it is clear that the relief requested, if granted, would be consistent with the spirit and intent of the B.C.Z.R., specifically, the requirements set forth in Section 502.1. Therefore, the relief requested in the special hearing shall be granted, subject to restrictions.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing and variances should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of March, 1991 that the subject dwelling and accessory structure to be connected by a breezeway, in accordance with Petitioner's Exhibit 1, is a single family dwelling, and as such, the Petition for Special Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a side yard setback of 3 feet in lieu of the minimum required 10

feet and a rear yard setback of 19 feet in lieu of the minimum required 30 feet for the accessory structure to be connected to the main dwelling by a breezeway, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Petitioners shall not allow or cause the accessory structure, which is to be annexed to the main dwelling, to be converted to an apartment. The annexed portion, including the breezeway, shall contain no kitchen facilities.
- 3) The garage shall not be connected or annexed in any manner to the existing dwelling or the accessory structure.
- 4) The proposed breezeway shall be a minimum of 4 feet wide and a maximum of 6 feet wide. The structure to be annexed to the existing dwelling shall have no second story and no kitchen facilities.
- 5) Except for the relief granted herein, there shall be no additional expansion or enlargement of any of the structures on the subject lot along the boundary line between 708 and 710 Mace Avenue.
- 6) The proposed breezeway shall be completed on or before August 1, 1991. Petitioner shall contact the Zoning Enforcement Division of this Office at 887-3351 prior to August 1, 1991 to arrange for a site visit by a Zoning Inspector to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 3/29/91
By JRH:bjs

PETITION FOR ZONING VARIANCE AND SPECIAL HEARING

91-288-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 502.1 of the Zoning Ordinance of Baltimore County to allow a side yard setback of 3 feet and a rear yard setback of 19 feet in lieu of the required 10 feet and 30 feet, respectively.

TO determine that the structure shown on the submitted site plans is indeed a single family dwelling.

We provide my great aunt Rose who ages 82 a quiet room in our house and her son age 19 must sleep on the living room sofa. My great aunt has no other immediate relatives and no place else to go.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/We are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: HERBERT J. Scism
(Type or Print Name)
Signature: Herbert J. Scism
Address: 708 Mace Avenue
City and State: Baltimore, Md. 21221
Attorney for Petitioner: 708 Mace Avenue 391-6337
(Type or Print Name) Address Phone No.
Baltimore, Md. 21221 City and State
Signature: Mary Rose Scism
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State: Baltimore, Md. 21221
Name: Mary Rose Scism
Address: 708 Mace Avenue
City and State: Baltimore, Md. 21221
Phone No.: 391-6337

ORDERED BY The Zoning Commissioner of Baltimore County, this 27 day of Dec, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 14 day of March, 1991, at 10 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 3/29/91
By JRH:bjs

111 West Chesapeake Avenue
Towson, MD 21204

March 29, 1991

887-3353

Mr. & Mrs. Herbert J. Scism
708 Mace Avenue
Baltimore, Maryland 21221

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
W/S Mace Avenue, 250' N of Upperland Road
(708 Mace Avenue)
15th Election District - 5th Councilmanic District
Herbert J. Scism, et ux - Petitioners
Case No. 91-288-SPHA

Dear Mr. & Mrs. Scism:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs
cc: Ms. Judith Reaves
706 Mace Avenue, Baltimore, Md. 21221
Ms. Lola B. Reaves
865 Mace Avenue, Baltimore, Md. 21221
Mr. & Mrs. Frances Hawkins
710 Mace Avenue, Baltimore, Md. 21221
People's Counsel
File

Zoning Description

Beginning at a point on the west side of Mace Avenue 250 ft. north of Upperland Road - * Being Lot (#3), Block(-), Section (A) in the subdivision of Back River Highlands as recorded in Baltimore County Plat Book #4, Folio #64 containing .229 acres. Also known as 708 Mace Avenue and located in the 15th Election District.

91-288-SPHA

CERTIFICATE OF POSTING

District 15TH Date of Posting 2/27/91
Posted for Special Hearing & Variance
Petitioner: Herbert J. Scism, et ux
Location of property: W/S Mace Ave., 250' N of Upperland Rd.
708 Mace Ave.
Location of Sign: Facing Mace Ave. across 2nd St. roadway.
on property of Petitioner
Remarks: None
Posted by: J. Robert Haines Date of return: 3/1/91
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2-21, 1991
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2-14, 1991.

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, as follows:
Case number: 91-288-SPHA
W/S Mace Avenue, 250' N of Upperland Road
708 Mace Avenue
15th Election District
5th Councilmanic District
Petitioner: Herbert J. Scism, et ux
Hearing Date: Thursday, March 14, 1991 at 2:00 p.m.
Special Hearing to determine that the structure shown on the submitted site plans is indeed a single family dwelling. Variance: to allow a side yard setback of 3 feet and a rear yard setback of 19 feet in lieu of the required 10 feet and 30 feet, respectively.

THE JEFFERSONIAN,

S. Zekes Orlum
Publisher

8 37.52

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed rezoning of the property located at 111 West Chesapeake Avenue in Towson, Maryland 21204. Case Number: 91-288-SPHA. The hearing will be held on Thursday, March 14, 1991, at 10:00 a.m. in the County Office Building, Room 113, Towson, Maryland 21204. The property is currently zoned R-1 and is being proposed for rezoning to R-2. The proposed rezoning is for a single family dwelling. The property is located on a lot of 10 feet in front, 10 feet in side and 30 feet in rear, respectively.

The Times

Middle River, Md., July 15 1991

(This is to Certify, That the annexed

Notice

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive

weeks before the 14th day of July, 1991

James E. Dyer Publisher

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-5150
Number

receipt

Date:

PUBLIC HEARING FEES

111

RECEIVED

111

RECEIVED

111

RECEIVED

LAST NAME OF OWNER: SCISM

TOTAL: \$70.00

Please Make Checks Payable To: Baltimore County 0440480050MCHRC 012126PH11-30-90

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-5150
Number

receipt

Date:

3/14/91

111

PUBLIC HEARING FEES

QTY

PRICE

OBO -POSTING SIGNS / ADVERTISING 1 X

\$104.58

LAST NAME OF OWNER: SCISM

TOTAL: \$104.58

Please Make Checks Payable To: Baltimore County 0440480050MCHRC 012126PH11-30-90

\$104.58

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE:

Herbert J. and Mary Rose Scism
708 Race Avenue
Baltimore, Maryland 21221

RE:

Case Number: 91-288-SPHA
W/S Race Avenue, 250' N of Upperland Road
708 Race Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Herbert J. Scism, et ux
HEARING: THURSDAY, MARCH 14, 1991 at 10:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 104.58 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE OFFICE SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

January 29, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-288-SPHA
W/S Race Avenue, 250' N of Upperland Road
708 Race Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Herbert J. Scism, et ux
HEARING: THURSDAY, MARCH 14, 1991 at 10:00 a.m.

Special Hearing to determine that the structure shown on the submitted site plans is indeed a single family dwelling.
Petition to allow a side yard setback of 3 feet and a rear yard setback of 19 feet in lieu of the required 10 feet and 30 feet, respectively.

J. Robert Haines

ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Herbert J. Scism, et ux

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 25, 1991

Mr. & Mrs. Herbert J. Scism
708 Race Avenue
Baltimore, MD 21221

RE: Item No. 226, Case No. 91-288-SPHA
Petitioner: Herbert J. Scism, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Scism:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 27th day of December, 1990.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer

Chairman
Zoning Plans Advisory Committee

Petitioner: Herbert J. Scism, et ux

Petitioner's Attorney:

received
12/19/90

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: December 17, 1990

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Caves Valley Club, Inc., Item No. 167
Caves Valley Club, Inc., Item No. 168
Dianna Lynn Peterson, Item No. 192
Charles F. Hohman, Item No. 213
Russell F. Morris, III, Item No. 218
Laura E. Earles, Item No. 220
Herbert Balsanna, Item No. 221
Terrell R. Johnson, Joseph Hartman, Trustees, Item No. 224
Michael Robert Snowman, Item No. 225
Herbert J. Scism, Item No. 226
James Stabler, Item No. 232
Douglas A. Pooley, Item No. 233

In reference to the above-listed cases, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

NCITEMS/ZAC1

Baltimore County Government
Department of Public Works
Bureau of Traffic Engineering

401 Bosley Avenue Suite 405
Towson, MD 21204

887-3554
Fax 887-5784

January 11, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 167, 213, 221, 224, 225, 226, and 233.

Very truly yours,

Rahee J. Famili

Rahee J. Famili
Traffic Engineer II

RJF/lvd

received
1/14/91

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION	() RAMPS (degree slope)
() NUMBER PARKING SPACES	() CURB CUTS
() BUILDING ACCESS	() SIGNAGE

(X) PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT SEPARATION DISTANCE BUILDING CODE. NO OPENINGS PERMITTED IN WALLS.

(X) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN.
SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE

() A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND

ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE REQUIRED TO COMPLY TO NEW USE REQUIREMENTS.

() OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE,
TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN, A
FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE
SUBMITTED.

APPLICABLE CODE: 1987 NATIONAL BUILDING CODES AS ADOPTED BY COUNCIL BILL

DECEMBER 13, 1990

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: HERBERT J. SCISM
Location: #708 MACE AVENUE

Item No.: 226 Zoning Agenda: DECEMBER 26, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt Joseph Kelly 12-14-90 Noted and Approved Captain W. E. Sady
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

PLAT FOR ZONING ORDINANCE
and Special Hearing

OWNER - Herb and Mary Rose, Soism
District 15 - Councilmanic District 5
Sub Division Back River Highlands
Lot 3, Book #4, Folio #64
Existing Public Utilities in Mace Ave.
Zoning OR - 5.5 Not in Critical Area
Lot Size 10,000 sq. ft.
NEE, 26
200' scale map = Scale 1" = 30'
Prior Zoning Hearings - none
PROPERTY ADDRESS 708 Mace Ave.

**PETITIONER'S
EXHIBIT 1**

Church Lot

[illegible]

91-288-
SPHA

NAME	ADDRESS
Judith Brainer	706 MacC Ave Escondido, Md 21221
Frances Hawkins	710 MacC Ave Escondido, Md 21221
Louise H. Hawkins	710 MacC Ave Escondido, Md 21221
Leola B. Reimer	805 MacC Ave Escondido, Md 21221

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: December 18, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for December 26, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 213, 221, 224, 225, 226, 230, and 233.

For Items 167, 168, 231 and 232, the previous County Review Group comments are applicable.

ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWR: 5

BALTIMORE COUNTY, MARYLAND

TO: J. Robert Haines November 30, 1990
Zoning Commissioner

Ann M. Nastarowicz
Deputy Zoning Commissioner

FROM: John J. Sullivan, Jr.
Planner II

SUBJECT: Petition, Item #226
708 Mace Avenue

Mrs. Mary Rose Scism stated today that the rear structure does not contain a kitchen.

JJS:scf

91-288-5PHA